

**AFFIDAVIT FOR SEARCH WARRANT**

Commonwealth of Virginia

VA. CODE § 19.2-54

The undersigned Applicant states under oath:

1. A search is requested in relation to ☒ an offense substantially described as follows:  
☐ a person to be arrested for whom a warrant or process for arrest has been issued identified as follows:

Robbery 18.2-58

Use or display of firearm in committing felony 18.2-53.1

[ ] CONTINUED ON ATTACHED SHEET

2. The place, person or thing to be searched is described as follows [ ] and is a place of abode:  
 A red Apple Iphone owned by and primarily used by Kumkio Martin, Jr. This device is currently in the custody of the Richmond Police Department in evidence bag #P7450700 evidence room located at 1451 E. Commerce Road Richmond, VA 23224, in the City of Richmond, south of the James River.

[ ] CONTINUED ON ATTACHED SHEET

3. The things or persons to be searched for are described as follows:  
 All stored data in allocated and unallocated space to include actively stored data and deleted data that is evidence of robbery or other felony offenses.

[ ] CONTINUED ON ATTACHED SHEET

(OVER)

FORM DC-338 (MASTER, PAGE ONE OF TWO) 07/17

FILE NO.

**AFFIDAVIT FOR  
SEARCH WARRANT**

APPLICANT:

Marley Williams

NAME

Detective

TITLE (IF ANY)

301 S. Meadow Street Richmond, VA 23220

ADDRESS

301 S. Meadow Street Richmond, VA 23220

Certified to Clerk of

Richmond

CITY OR COUNTY

Circuit Court

on 5/16/2023

DATE

MARLEY WILLIAMS

TITLE

[Signature]

SIGNATURE

Original Delivered [ ] in person [ ] by certified mail  
 [ ] by electronically transmitted facsimile  
 [ ] by use of filing/security procedures  
 defined in the Uniform Electronic  
 Transactions Act

to Clerk of ..... Circuit Court  
 CITY OR COUNTY WHERE EXECUTED

on .....  
 DATE

TITLE

SIGNATURE

746 CM 2300004033

US-00000166

4. The material facts constituting probable cause that the search should be made are:  
see attachment A

5. The object, thing or person to be searched for ☒ constitutes evidence of the commission of such offense ☐ is the person to be arrested for whom a warrant or process for arrest has been issued.

6. ☐ Authorization to execute a search warrant of a place of abode other than in the daytime hours between 8:00 a.m. and 5:00 p.m. is requested.  
The material facts constituting good cause for such authorization are:  
This is not an abode.

☐ Reasonable efforts were made to locate a judge, and a judge is not available, before seeking authorization from a magistrate to execute a search warrant other than in the daytime hours between 8:00 a.m. and 5:00 p.m., with those reasonable efforts being as follows:

OR ☐ Reasonable efforts were not made to locate a judge as the following circumstances require the issuance of the search warrant after 5:00 p.m.:

7. ☒ I have personal knowledge of the facts set forth in this affidavit AND/OR

☒ I was advised of the facts set forth in this affidavit, in whole or in part, by one or more other person(s). The credibility of the person(s) providing this information to me and/or the reliability of the information provided may be determined from the following facts:

See Attachment B

The statements above are true and accurate to the best of my knowledge and belief.

Detective

TITLE OF APPLICANT

Marley Williams

Marley Williams  
APPLICANT

Subscribed and sworn to before me this day.

5.16.2023 @ 12:48 pm

DATE AND TIME

☐ CLERK ☒ MAGISTRATE ☐ JUDGE

## **Attachment A**

**The material facts constituting probable cause that the search should be made are:**

### **DETAILS OF THE INVESTIGATION**

1. Because this affidavit is being submitted for the limited purpose of securing a search warrant, this affiant has not included each and every fact known concerning this investigation. This affiant has set forth facts that this affiant believes are necessary to establish probable cause to believe that contraband, as well as evidence and instrumentalities of violations of Va. Code § 18.2-58, are presently located within the cellular device described as a red Apple iPhone in evidence bag # 7450700. This device is currently in the custody of the Richmond Police Department evidence room located at 1451 E Commerce Road, Richmond, Virginia 23224, in the City of Richmond, south of the James River. Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.
  
2. On May 4<sup>th</sup>, 2023 at approximately 1017 hours, a call for a robbery that had just occurred came into Richmond DEC. Officers were dispatched to 6812 Midlothian Turnpike at the Tobacco Hut to investigate. Detectives arrived on scene, spoke to the victim and obtained video footage of the suspect. Video showed a black male enter the store, display a firearm and flee the location with cash and vape devices. There was a female inside the store at the time of the robbery that had fled the scene by the time police arrived.  
  
The male was identified by detectives as Kumkio Martin, Jr. and subsequently arrested. The female that was inside of the location at the time of the robbery was identified as Breona Reid, who is the girlfriend of Martin.

The suspect vehicle that was used in the robbery is registered to Reid. The vehicle had a tracking device installed on it in as it was identified as being involved in a previous robbery in the city. Detectives, along with assistance from Chesterfield PD, were able to locate and conduct a traffic stop on the vehicle. Martin was the driver and sole occupant. The vehicle was towed to Seibert's and held in the HFI lot. Prior to the vehicle being towed, Martin asked to retrieve his cell phone from the vehicle, but his request was denied by officers. A search warrant was obtained for the vehicle and executed. Martin's phone was located on top of the center console. The phone, along with other evidence, was logged into Richmond Police property by Detective Sandlin.

### **CONCLUSION**

3. Based on the aforementioned factual information, I believe probable cause exists that the seized cellular device described in Section 2 of this affidavit was being used as an instrumentality in the course of, and in furtherance of a robbery. Moreover, it is reasonable to believe that data records and other evidence are being stored in electronic form on the cellular device.

Therefore, it is respectfully requested that the warrant sought by this application authorize the search and seizure for all "all stored data in allocated and unallocated space to include actively stored data and deleted data," as further set-out and explained in Attachment A and further authorize a full physical and forensic examination of the seized item at a secure location.

### **PERSISTENCE OF DIGITAL EVIDENCE**

Cellular telephones store data, both on removable media (for example, micro-SD cards) and internal media, in ways that are not completely known or controlled by most users. Once stored, data is usually not destroyed until it is overwritten. For example, data that is "deleted" by a user is usually not actually deleted until it is overwritten by machine processes (rather than user decision) that decide where to store data and when overwriting will occur. Therefore, files and fragments of files and other data may easily last months, if not years, if the storage media is retained.

Active data includes not only files created by and with the user's knowledge, but also may include items such as internet history log files, system registry files (listing all the systems and software applications installed on a computer, including the dates of installation, use, and deletion), and date/time file stamps automatically created that identify when files were created, modified, and last accessed.

I know, based upon my training and experience, that a qualified forensic examiner may use knowledge of the mechanisms used to store electronic data to unlock and to uncover the activities of a computer or cellular device's user years after the fact by examination of active, latent, and archival data. Through the use of proper computer forensic techniques such data and evidence of criminal offenses may be recovered, notwithstanding the passage of time since a crime occurred.

## **Attachment B**

### **IDENTITY OF THE AFFIANT**

This affiant is a sworn law enforcement officer pursuant to Virginia Code §19.2-56 and has been employed by the City of Richmond Police Department for approximately 16 years 3 months.

This affiant has been assigned as a property crimes detective for approximately 8 years and 9 months.

This affiant has obtained training and experience to include: completion of the basic police academy in 2008, training courses on, social media basics, interview and interrogation, and basic investigator classes. This affiant has participated in robbery, burglary and larceny investigations. During those investigations this affiant has participated in several interviews of admitted offenders and questioned them regarding the manner in which they commit their crime.

Detective Sandlin is a sworn law enforcement officer pursuant to Virginia Code §19.2-56 and has been employed by the City of Richmond Police Department for approximately 25 years.

# SEARCH WARRANT

Commonwealth of Virginia

VA. CODE §§ 19.2-56, 19.2-57

## TO ANY AUTHORIZED OFFICER:

You are hereby commanded in the name of the Commonwealth to forthwith search the following place, person or thing:

A red Apple iPhone in a blue case owned by and primarily used by Kumkio Martin, Jr. This device is currently in the custody of the Richmond Police Department in evidence bag number P7450700 evidence room located at 1451 E. Commerce Road, Richmond VA 23224, south of the James River.

for the following property, objects and/or persons:

Stored data in allocated and unallocated space to include actively stored data and deleted data that is evidence of robbery or use of a firearm in commission of a felony.

- ☐ This SEARCH WARRANT authorizes a search of a place of abode which may be executed by initial entry of the abode
- ☐ only in the daytime hours between 8:00 a.m. and 5:00 p.m., unless prior to the issuance of this SEARCH WARRANT, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously OR
- ☐ at any time for good cause shown.

As this SEARCH WARRANT authorizes a search of a place of abode, you are required to be recognizable and identifiable as a uniformed law-enforcement officer and to provide audible notice of your authority and purpose reasonably designed to be heard by the occupants of the place to be searched prior to the execution of this SEARCH WARRANT.

You are further commanded to seize said property, persons, and/or objects if they be found and to produce before the Richmond Circuit Court an inventory of all property, persons, and/or objects seized.

This SEARCH WARRANT is issued in relation to ☒ an offense substantially described as follows:

☐ a person to be arrested for whom a warrant or process for arrest has been issued identified as follows:

VA Code Section 18.2-58 Robbery, VA Code Section 18.2-53.1 Use of a firearm in commission of a felony.

☐ Supplemental sheet attached and incorporated by reference. Number of supplemental pages \_\_\_\_\_.

I, the undersigned, have found probable cause to believe that the property or person constitutes evidence of the crime identified herein or tends to show that the person(s) named or described herein has committed or is committing a crime, or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched, and further that the search should be made, based on the statements in the attached affidavit sworn to by

Det. Marley Williams

NAME OF AFFIANT

Tony S. Tate

☐ CLERK ☒ MAGISTRATE ☐ JUDGE

Tony S. Tate

05/16/2023 12:57 PM

DATE AND TIME

FILE NO.

## SEARCH WARRANT

COMMONWEALTH OF VIRGINIA

v./In re

Red Apple iPhone

1451 E Commerce Road

Pack #P7450700

SWN: 760CM2300004033

## SEARCH INVENTORY AND RETURN

The following items, and no others, were seized under authority of this WARRANT:

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....
7. ....
8. ....
9. ....
10. ....
11. ....
12. ....

The statement above is true and accurate to the best of my knowledge and belief.

DATE

EXECUTING OFFICER

Subscribed and sworn before me this day

DATE

[ ] CLERK [ ] MAGISTRATE [ ] JUDGE

### FOR NOTARY PUBLIC'S USE ONLY:

State of ..... [ ] City [ ] County of .....

Acknowledged, subscribed and sworn to before me this ..... day of ....., 20 .....

NOTARY REGISTRATION NUMBER

NOTARY PUBLIC

(My commission expires: .....)

## EXECUTION

Executed by searching the within described place, person or thing.

5/16/23 1320 HRS.  
DATE AND TIME EXECUTED

M-WILLIAMS #3411  
EXECUTING OFFICER

Certified to .....

Circuit Court on .....  
DATE

EXECUTING OFFICER

Received [ ] in person [ ] by certified mail  
[ ] by electronically transmitted  
facsimile

on .....  
DATE

by: .....  
CLERK OF CIRCUIT COURT